IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.1268 OF 2006

Smt. Saroj Tejprakash Dangi ..Petitioner.

Vs.

State of Maharashtra & anr. ..Respondents.

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Ms. Yogini Gurav i/b Mr. S.V. Vora for the Petitioner.
Mr. A.P. Vanarase, AGP for the State.

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CORAM : DR.D.Y.CHANDRACHUD, J.

10th April, 2006

P.C.:

The Second Respondent instituted proceedings for the recovery of its dues in Dispute Application CCI/85 of 2003 before the Co-operative Court. An award was passed on 14th October, 2003 and it is the case of the Petitioner that the award was passed ex parte. An application was moved by the Petitioner on 2nd June, 2004 for setting aside the ex parte award and it was stated therein that the Petitioner came to know about the case only on 22nd May, 2004 when a notice before attachment dated 19th May, 2004 was served. Hence, it is submitted that the application for setting aside the ex parte decree was instituted within limitation, in the sense that it was instituted within 30 days of the date on which the

Petitioner came to know of the passing of the award.

The Learned Trial Judge has noted in paragraph 8 of the judgment that the Petitioner admitted in the course of the cross examination, that she had duly received the demand notice of the Second Respondent Bank on 24th March, 2004. In the circumstances, the contention of the petitioner that she had obtained knowledge of the award on 22nd May, 2004 was false. There was a delay in filing the application for restoration and there was no application for condonation, much less was any sufficient cause made out. Even before this Court learned counsel has only reiterated the submission that it was only on 22nd May, 2004 that the Petitioner obtained the knowledge of the award. This, as already noted above, has been falsified by the admission of the Petitioner in the course of the cross examination that the Bank had served a demand notice on 24th March, 2004 on the Petitioner. There is therefore clearly a material suppression of facts by the Petitioner. A litigant who suppresses the truth from the Court does not deserve the exercise of the equitable jurisdiction in his favour. In the circumstances, there is no merit in the Petition which is accordingly dismissed.